

FOR INFORMATIONAL USE ONLY
COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 02-MSRC-009

**COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF MINES AND MINERALS**

COMPLAINANT

v.

TIM GREENE

RESPONDENT

FINAL ORDER

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant and Respondent Tim Greene, and the members of the Commission having reviewed the Settlement Agreement filed on September 2, 2002 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY ORDERED as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The Respondent, Tim Greene's Electrician's Certificate, # MN-***-**, issued by the Commonwealth of Kentucky, shall be revoked for a period of one (1) year, effective September 16, 2002;
3. Pursuant to the terms of the Settlement Agreement, the Respondent, Tim Greene, has agreed that if he wants to become a certified electrician in the Commonwealth of Kentucky after the expiration of said revocation period, he must re-take and pass the Kentucky electrical examination, prior to re-applying to the Kentucky Mining Board for an

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electrician's certificate;

4. The Respondent, Tim Greene, shall turn over his electrician's certificate to a representative of the KDMM on or before September 20, 2002, at a time and place to be arranged by the parties;

5. The Respondent, Tim Greene's Underground Mine Foreman's Certificate, # A-***-**, issued by the Commonwealth of Kentucky, shall be probated for a period of one (1) year, effective September 16, 2002;

6. Pursuant to the terms of the Settlement Agreement, the Respondent, Tim Greene, has agreed to comply with all state and federal mine safety and health laws and regulations;

7. The violation by Greene of any of the aforementioned laws or regulations may result in KDMM filing a motion with the MSRC to revoke Greene's Underground Mine Foreman's certificate for the remainder of the probationary period. In that event, Respondent Greene would be entitled to a hearing before the MSRC on the allegations against him;

8. The Settlement Agreement signed by the parties and filed with the Commission shall be incorporated by reference and attached hereto;

9. The Commission advises Respondent, Tim Greene, that the Settlement Agreement he has entered into and the resulting Final Order could be used to enhance any subsequent violations should they occur and be adjudicated;

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10. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, Tim Greene, in this matter. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission. Pursuant to KRS 351.194(8), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of an order.

Entered this _____ day of September 2002.

BAYARD V. COLLIER, CHAIR
MINE SAFETY REVIEW COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER was served by certified mail, return receipt requested, to the following this _____ day of October 2002:

TIM GREENE

MEALLY KY *****
Respondent

And by messenger mail to:

COMMISSIONER FRANK DELZER
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

HON. TONY OPPEGARD
GENERAL COUNSEL
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

And the original shall be kept on file:

MINE SAFETY REVIEW COMMISSION
132 BRIGHTON PARK BLVD.
FRANKFORT KY 40601

DIANE SCHULER FLEMING
GENERAL COUNSEL
MINE SAFETY REVIEW COMMISSION

KENTUCKY MINE SAFETY REVIEW COMMISSION

KENTUCKY DEPT. OF MINES & MINERALS)	
)	
Complainant)	
)	
v.)	Administrative Action No. 02-MSRC-009
)	
TIM GREENE)	
)	
Respondent)	
)	

SETTLEMENT AGREEMENT

Come the Complainant, the Kentucky Department of Mines & Minerals (“KDMM”), and the Respondent, Tim Greene (“Greene”), and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the dismissal of this action against him, Greene hereby admits to the facts and violations set forth in paragraphs 5 - 7 of the Complaint, and agrees to the **REVOCATION OF HIS ELECTRICIAN’S CERTIFICATE (MN-***-**) FOR A PERIOD OF ONE (1) YEAR**, beginning September 16, 2002. Greene shall turn over his electrician’s certificate to a representative of the KDMM on or before September 20, 2002, at a place and time to be arranged by the parties.

Greene further agrees that if he wants to become a certified electrician in the Commonwealth of Kentucky after the expiration of said revocation period, he will have to re-take and pass the Kentucky electrical examination prior to re-applying to the Kentucky Mining Board for an electrician’s certificate.

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In addition to the one year revocation of his electrician's certificate, Greene agrees to the **PROBATION OF HIS UNDERGROUND MINE FOREMAN'S CERTIFICATE (A-***-**) FOR A PERIOD OF ONE (1) YEAR**, also beginning September 16, 2002. During said period of probation, Greene agrees to comply with all state and federal mine safety and health laws and regulations. The violation by Greene of any of said laws or regulations may result in KDMM filing a motion with the Mine Safety Review Commission to revoke Greene's mine foreman's certificate for the remainder of the one (1) year probationary period.¹ In that case, Greene would be entitled to a hearing before the Commission on the allegations against him.

Greene understands and agrees that he has had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself. Greene further states that he has carefully read and considered this Settlement Agreement prior to signing the Agreement, and that he understands and agrees to its terms and provisions.

KDMM and Greene acknowledge that there are no other promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.

TIM GREENE

Meally, Kentucky *****

FRANK X. DELZER, Commissioner
Kentucky Dept. of Mines & Minerals
P.O. Box 2244
Frankfort, Kentucky 40602

¹ If the circumstances warranted, KDMM would also retain the right to file a separate action with the Commission seeking other penalties against the Respondent for his actions.

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DATE

DATE

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Settlement Agreement was mailed this —— day of September, 2002, to Tim Greene, *****, Meally, Kentucky *****.

TONY OPPEGARD
General Counsel
KENTUCKY DEPT. OF MINES & MINERALS